

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**3V, INC., a Delaware Corporation,**

**Plaintiff**

**V.**

**CIBA SPECIALTY CHEMICALS  
CORPORATION, a Delaware Corporation,**

**Defendant.**

**C.A. No. 06-00593-JJF**

**CIBA SPECIALTY CHEMICALS  
CORPORATION, a Delaware Corporation,**

## Cross-Plaintiff

**V.**

**C.A. No. 06-00629-JJF**

**3V, INC., a Delaware Corporation,**

**Cross-Defendant.**

**CIBA SPECIALTY CHEMICALS  
CORPORATION, a Delaware Corporation,**

Plaintiff

**V.**

**C.A. No. 06-672-JJF**

**3V, INC., a Delaware Corporation,**

**Defendant.**

## **UNOPPOSED MOTION TO MODIFY RULE 16 SCHEDULING ORDER**

3V, Inc., by and through its undersigned counsel, hereby moves this Court for an Order modifying the Rule 16 Scheduling Order previously entered in these cases. Counsel for CIBA Specialty Chemicals Corporation (“CIBA”) have informed counsel for 3V, Inc. that CIBA does not oppose this Motion. The grounds for this Motion are as follows:

1. On or about September 25, 2006, 3V, Inc. commenced Civil Action No. 06-593. On October 10, 2006, CIBA filed a Cross Complaint which was designated Civil Action No. 06-629 and, on October 31, 2006, CIBA began yet another related action before this Court, which was assigned Civil Action No. 06-672. These actions all relate to the same underlying subject matter in that they seek review of certain decisions made by the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office.

2. On or about December 21, 2006, this Court entered a Rule 16 Scheduling Order in these actions [D.I. No. 12 in Civil Action No. 06-593] (the "Scheduling Order").

3. No date for trial has been set in any of these cases.

4. Recently, new counsel have entered their appearances to represent 3V, Inc. in these cases and the Court has admitted them *pro hac vice*. Counsel have begun the process of exploring whether the parties may be able to settle these cases.

5. By this Motion, 3V, Inc. seeks to modify the Scheduling Order in two respects. First, an extension of all material deadlines in the case for a period of four months is in order (a) to give 3V's new attorneys time to get up to speed and (b) to allow the parties to devote more time to pursue settlement discussions before they are forced to expend additional time and expense in order to comply with discovery deadlines. Second, the parties agree that these cases should be referred to Magistrate Judge Thyng for purposes of exploring mediation or other forms of alternative dispute mediation. The original Scheduling Order did not provide for such a referral.

6. As mentioned above, counsel for 3V, Inc. has communicated with counsel for CIBA concerning the substance of this Motion. Counsel for CIBA have indicated that CIBA

does not oppose the relief sought herein. Moreover, because the Court has not yet scheduled trial in these cases, the Court's schedule will not be impaired in any way if this Motion is granted.

Accordingly, for the reasons set forth above, 3V, Inc. respectfully requests that the Court modify the Scheduling Order. A form of order is attached to this Motion.

Dated: July 18, 2007

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*Counsel for 3V, Inc.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

3V, INC., a Delaware Corporation,	)	
	)	
Plaintiff	)	
	)	C.A. No. 06-00593-JJF
v.	)	
	)	
CIBA SPECIALTY CHEMICALS	)	
CORPORATION, a Delaware Corporation,	)	
	)	
Defendant.	)	
	)	
CIBA SPECIALTY CHEMICALS	)	
CORPORATION, a Delaware Corporation,	)	
	)	
Cross-Plaintiff	)	
	)	C.A. No. 06-00629-JJF
v.	)	
	)	
3V, INC., a Delaware Corporation,	)	
	)	
Cross-Defendant.	)	
	)	
CIBA SPECIALTY CHEMICALS	)	
CORPORATION, a Delaware Corporation,	)	
	)	
Plaintiff	)	
	)	C.A. No. 06-672-JJF
v.	)	
	)	
3V, INC., a Delaware Corporation,	)	
	)	
Defendant.	)	
	)	

## ORDER MODIFYING RULE 16 SCHEDULING ORDER

Upon the Unopposed Motion of 3V, Inc. to Modify the Rule 16 Scheduling Order in the above-captioned cases (the “Motion”), it appearing that the Motion was duly served and that there is no opposition to the Motion, and finding that cause exists to grant the relief requested in the Motion,

IT IS ORDERED, that

1. The Motion is hereby GRANTED.
2. Scheduling Order in these cases is hereby modified as follows:
  - (a) The Discovery described in paragraph 3(a) of the Scheduling Order shall be commenced so as to be completed by January 28, 2008.
  - (b) The deadline for depositions to be completed (Scheduling Order, paragraph 3(e)) shall be July 28, 2008.
  - (c) The deadline for additional Discovery as described in the Scheduling Order at paragraph 3(f) shall be September 30, 2008.
  - (d) Reports from retained experts in cases 06-00593-JJF and 06-00629-JJF required by Fed. R. Civ. P. 26(a)(2) are due from the party having the burden of proof by August 25, 2008; from the opposing party by October 28, 2008. Rebuttal reports are due December 15, 2008. (Modifying paragraph 3(g) of the Scheduling Order.)
  - (e) Expert reports for the party having the burden of proof in C.A. No. 06-00672-JJF shall be due on September 23, 2008; and for the opposing party on November 25, 2008. Rebuttal reports are due on January 19, 2009. (Modifying paragraph 3(h) of the Scheduling Order.)
  - (f) All motions to amend the pleadings shall be filed on or before October 13, 2008. (Modifying paragraph 5 of the Scheduling Order.)
  - (g) Any motions challenging this Court's jurisdiction shall be filed by January 28, 2008. (Modifying paragraph 6(a) of the Scheduling Order.)

(h) Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before February 17, 2009. (Partially modifying paragraph 6(b) of the Scheduling Order.)

3. Except as specifically modified in paragraph 2 of this Order, the provisions of the Scheduling Order shall remain in full force and effect.

4. Pursuant to 28 U.S.C. § 636, and Local Rule 72.1(a)(1), these cases are hereby referred to Magistrate Judge Thyng for the purpose of exploring ADR.

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Joseph J. Farnan, Jr.  
United States District Court Judge

Dated: \_\_\_\_\_, 2007

**CERTIFICATE OF SERVICE**

I, Joseph Grey, hereby certify that, on this 18th day of July, 2007, and in addition to the service provided pursuant to the Court's CM/ECF system, I caused true and correct copies of the foregoing Unopposed Motion to Modify Scheduling Rule 16 Order to be served on CIBA Specialty Chemicals Corporation by first class United States mail, postage prepaid and addressed to CIBA's counsel as follows:

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/s/ Joseph Grey  
Joseph Grey